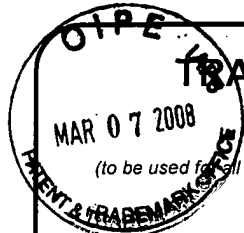


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(to be used for all correspondence after initial filing)

Application Number	10/775,881
Filing Date	02/10/2004
First Named Inventor	Luc Lemmens, et al.
Art Unit	3683
Examiner Name	Christopher P. Schwartz
Total Number of Pages in This Submission	Attorney Docket Number 1316N-001663

## ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <p style="text-align: center;"><b>Return Receipt Postcard</b></p>		
<table border="1"> <tr> <td>Remarks</td> <td>The Commissioner is hereby authorized to charge any additional fees that may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 08-0750. A duplicate copy of this sheet is enclosed.</td> </tr> </table>			Remarks	The Commissioner is hereby authorized to charge any additional fees that may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 08-0750. A duplicate copy of this sheet is enclosed.
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## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Harness, Dickey & Pierce, P.L.C.	Attorney Name	Michael J. Schmidt	Reg. No.	34,007
Signature					
Date	March 7, 2008				

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Confirmation No. 1429

Application Number: 10/775,881  
Filing Date: February 10, 2004  
Appellant(s): Luc Lemmens, et al.

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Michael J. Schmidt  
For Appellants

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**APPELLANTS' REPLY BRIEF**

## **APPELLANTS' REPLY BRIEF**

In response to the Examiner's Answer, Appellants request consideration of the following arguments.

The Examiner's position regarding the prevention of fluid flow is respectfully traversed. As described in paragraph [0028], and illustrated in Figure 2, the sliding back and forth of piston 28 causes fluid flow through down tube 44 to enter air adjustment valve 22. Thus, it is inherent that small sliding movements of piston 28 will displace small amounts of fluid to air adjustment valve 22. As described in paragraph [0022], air pressure from spring 12 (pressure signal 18) is transported to upper membrane 62. Upper membrane 62 presses oil in chamber 58 through aperture 60 into chamber 56 to press lower membrane 52 against the surface of nipple 50 thereby controlling flow from down tube 44, to reserve chamber 38. Fluid flow will increase at lower air pressure and fluid flow will decrease at higher air pressure. Thus, the higher the air pressure, valve 22 reduces the fluid flow which is the same as preventing fluid flow.

Claim 1 defines the embodiment in Figures 4 and 5 for valve 22b. Paragraph [0028] defines hose 68 communicates pressure signal 18 to membrane 62a. In Figures 4 and 5, hose 68 communicates pressure signal to membrane 62b through chamber 134. Paragraph [0029] defines that the movement of piston 28 causes fluid to flow through tube 44 through nipple 90 to contact lower member 52a. As illustrated in Figure 4, down tube 44 is connected to chamber 126 which is open to membrane 52b. Again it is inherent that small piston movements cause small fluid flows and large piston movements cause large fluid flows.

Paragraphs [0031] and [0032] describe the fluid flow through valve 22b. In membrane 52b, a first fluid passage is defined. For small amounts of fluid flow the fluid flows through passage 130 as defined in our Appeal Brief. The second passage between membrane 52b and housing 140 is closed due to the load being applied to membrane 52b from air pressure in chamber 134 from hose 68. Thus, this load applied by the air pressure clearly prevents fluid flow between membrane 52b and housing 140. Even if there is a small amount of leakage as proposed by the Examiner,

fluid flow is clearly prevented. At higher flow rates, membrane 52b flexes to open the second flow path. The specification does not say "further open" so inherently the first passage was closed (preventing fluid flow) prior to being opened by fluid pressure.

Thus, Applicants believe the specification as originally filed clearly provides support for the limitation that the second fluid passage is closed to prevent fluid flow through the second fluid passage. Reversal of the Examiner's rejection is respectfully requested.

Regarding the 35 U.S.C. § 103 rejection using Vermolen, the Examiner has no support in Vermolen for defining his second fluid passage. Vermolen defines aperture 106 as a tuning aperture and there is absolutely no disclosure in Vermolen that defines fluid flow through aperture 106 into chamber 112 and then back through aperture 106 into chamber 102. This is clearly hindsight reconstruction by the Examiner attempting to define limitations of pending claims to a piece of prior art without support in the prior art for the Examiner's position.

In addition, Claim 1 defines that the second fluid passage is separate from the first fluid passage. Using the definition of fluid passages by the Examiner, the first fluid passage extends from 92 between the land and shim disc 78 out to 102. The second fluid passage extends from 92 through aperture 106 to chamber 112 back through aperture 106 between the land and shim disc 78 out to 102. These two fluid passages defined by the Examiner are not separate from each other as defined by Claim 1 as they both have fluid flow between the land and shim disc 78.

Thus, Applicants respectfully request the reversal of the Examiner's rejection.

Respectfully submitted,

Dated: March 7, 2008

By: 

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